

FILED

January 25 2010

Ed Smith
CLERK OF THE SUPREME COURT
STATE OF MONTANA

IN THE SUPREME COURT OF THE STATE OF MONTANA

No. DA 09-0614

LAWRENCE FREDRICK ROEDEL,

Appellant Petitioner

V.

STATE OF MONTANA

Respondent

BRIEF OF APPELLANT

On Appeal from the Montana Eleventh Judicial District Court,
Flathead County, The Honorable Katherine R. Curtis, Presiding

APPEARANCES:

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TABLE OF CONTENTS

Table of Authority	ii
Table of the Issues	iv
Statement of the Case	1
Failure of Appointed Counsel	2
Response to State Rationale	3
Arguments of the Issues	6
Summary of Appeal	37
Reservation of Habeas Corpus	38
Relief	38
Certificate of Service	
Certificate of Compliance	
Exhibits A-J	
A. Amended post-conviction petition	
B. Supplement to amended post-conviction	
C. Supplement II to amended post-conviction	
D. Motion in Limine filed March 27, 2006 (see page 19)	
E. Polygraph Evidence filed March 29, 2006 (see page 19)	
F. Landis/Roedel Interview FU#12, pages 10, 18, 31-32, 36	
G. Landis/Roedel Interview FU#14, pages 14, 26	
H. Trial Transcript Cause DC 05-357(A) less index	
I. States Order and Rationale	
J. Bullet Yaw Exhibit	

TABLE OF AUTHORITIES

Mathews v. Eldridge, 424 US 315, 333 47 L.Ed. 18, 96 S.Ct. 892 (1976)	4
Thompson v. Calderon, 109 F3d 1358 (9th Cir 1996)	6
People of Territory of Guam v. Torre, 68 F3d 1177 (9th Cir 1995)	12
U.S. v. Hermanek, 289 F3d 1076 (9th Cir 2002)	13
AUS v. Garcia-Guizar, 160 F3d 511 (9th Cir 1990)	13
U.S. v. Rude, 88 F3d 1538 (9th Cir 1996)	13
U.S. v. Beckman, 222, F3d 512 (8th Cir 2000)	13
Philips v. Woodford, 267 F3d 966 (9th Cir 2001)	15
U.S. v. Edwards, 242 F3d 928 (10th Cir 2001)	16
Lee v. City of Los Angeles, 250 F3d 668 (9th Cir 2001)	16
U.S. v. Myers, 308 F3d 251 (9th Cir 2002)	16
Easy Riders Freedom F.I.G.H.T. v. Hannigan, 92 F3d 1486 (9th Cir 1996)	17
Brady v. Maryland, 373 US 83, 83 S.Ct. 1194, 10 L.Ed. 2d 215 (1963) and its progeny as in U.S. v. Price (C.A.9 (OR) 2009)	17
U.S. v. Colon Munoz, 192 F3d 210 (1st Cir 1999)	18
Chapman v. California, 386 US 18, 23-24, 17 L.Ed 705, S.Ct. 824 (1967)	27
Liljerberg v. Health Service Corp., 486 US 847, 100 L.Ed. 2d 855, 108 S.Ct 2194 (1988)	27
Field v. Woodford, 309 F3d 1095 (9th Cir 2002)	27
Forbes v. Napolitano, 336 F3d 1009 (9th Cir 2002)	29
Eckert v. Town of Silver	

TABLE OF AUTHORITIES (Cont.)

Eckert v. Town of Silverthorne, 258 F3d 1147 (10th Cir 2001)	30
Central Airlines Inc. v. U.S., 138 F3d 333 (8th Cir 1988)	30
U.S. v. Nyhuis, 211 F3d 1340 (11th Cir 2000)	37
Berger v. U.S., 295 US 78, 88, 79 L.Ed. 1314 55 S.Ct. 629 (1935)	37
Bivens v. Six Unknown Agents, 403 US 388, 29 L.Ed. 2d 619, 91 S.Ct. 1999 (1970)	37

OTHER

MCA 46-21-105 (2)	3
MCA 45-5-201 (1)(d)	29
House Bill 228 (2009)	29
Landis/Roedel Interviews, FU #12 Pages 10, 18, 31, 32	5
Landis/Roedel Interviews, FU #14 Pages 8, 14	5
Polygraph evidence exhibit	19
Ed Corrigan Limine Motion	19

TABLE OF THE ISSUES

1. State's "Firing All Three Shot's" Theory	6
2. The Rapid Fire Testimony	13
3. Deceased on Exterior When Shot	15
4. Wrongfully Arrested	16
5. Insufficiency of Evidence Content	18
6. Misdirected Analysis of Deceased Web Site and Deceased Character in General	20
7. Two Exit Hole Accounts and Two Trajectory Angles	24
8. Rod Meyers Jury Influence	26
9. Attempt on Petitioners Life	27
10. Immediate Collapse Theory	31
11. State Failed to Prove the Element of their "Side Impact Theory" of Bullet Said to have Inflicted the Injury	34

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3 Dated 24th day of December, 2009

4
5 IN THE SUPREME COURT OF THE STATE OF MONTANA

6 LAWRENCE ROEDEL

7 Appealant Petitioner

8 vs

9 STATE OF MONTANA

10 Respondent

CAUSE # DA 09-0614

Appeal of Post-Conviction and
its Supplements

11 Statement of the Case

12 The petitioner was charged and convicted by a jury of the offence of
13 deliberate homicide for the shooting death of his wife Dawn Thompson. He
14 was sentenced to eighty years at Montana State Prison plus ten years for
15 use of a weapon.

16 The petitioner requested assistance of counsel to file his direct
17 appeal in that trial counsel filed the appeal and then withdrew leaving
18 the petitioner without counsel.

19 The 11th District Court denied the petitioner counsel. The petitioner
20 submitted hand written papers as a direct appeal.

21 The Montana Supreme Court then ordered the District Court to appoint
22 counsel. Joslyn Hunt of the Public Defenders Office was appointed as
23 counsel for the petitioner.

24 The direct appeal became final in February 2008. Petitioner filed
25 his original post-conviction petition November 7th 2008. A request for

ROEDEL APPEAL OF
POST-CONVICTION

1 counsel and 90 days filing time was filed. The court denied counsel and
2 the requested 90 days filing time. The purpose of counsel and 90 days
3 filing time was in the event his original petition was denied and the need
4 to file an amended post-conviction became necessary.

5 The court denied counsel and ordered the amended petition be filed in
6 30 days. The petitioners amended post-conviction, although diminished,
7 was filed December 22, 2008.

8 The state now claims they gave the petitioner until February 2, 2009
9 to file his amended post-conviction. I have received no such document,
10 regardless of any state proofs or claims regarding an extention of time
11 until Febraury 2, 2009.

12 Failure of Appointed Counsel

13 Glen Neier now claims he was appointed counsel for petitioners post-
14 conviction December 18th 2008. Neither Mr. Neier nor the Court ever
15 contacted the petitioner as to such an appointment of counsel. Mr. Neiers
16 first and only contact with the petitioner was his motion to withdraw as
17 counsel received November 5, 2009.

18 While counsel may have been appointed, this petitioner did not receive
19 meaningful benefits of counsel during his post-conviction process depriving
20 the petitioner of due process during a critical stage of his post-
21 conviction.

22 Roedel lacks the expertise to argue the ramifications surrounding this
23 experience but reserves any and all arguements what so ever regarding the
24 issue of appointment of counsel and or Mr. Neiers involvement, his
25 deriliction of duty. Roedel reserves any rights that should have been

1 afforded him or denied him in this matter with no exceptions. I expect
2 sworn verifications existed in his appointment.

3 Response to State Rationale

4 The persistant denial of counsel has afforded the state the very
5 foreseable dregs of procedural issues which began with vigor on page 2 of
6 Rationale.

7 The State contends no evidence establishing facts alledged in petition
8 existed. Here the petitioner did quote and rely on States own evidence as
9 set forth in his trial transcript. Trial transcript was well referenced
10 plus the entire transcript less index was attached to the petitioners
11 amended post-conviction petition. There should have been no need to attach
12 a second or third transcript with each of the supplements.

13 The court however agrees to analyze the petitioners claims on their
14 merits. Page 2 Order and Rationale.

15 The Court cites MCA 46-21-105(2) as a compliance not met by the
16 petitioner. However, in (2) the petitioner was denied an opportunity to
17 personaly and effectively participate in his direct appeal in that he was
18 repeatedly denied a copy of his trial transcript to review all the issues
19 until after his direct appeal had been filed.

20 Claims of ineffective trial counsel included complaints that appeal-
21 ant counsel did not raise on direct appeal. Appealant counsel did raise
22 the issue where trial counsel announced during voir dire that he was found
23 to be a liar in a suit in California against his old firm there. tr trans
24 131 and 132.

25 Appealant counsel made no mention of the six set up lines of "who is

telling the truth" and/or "who is not telling the truth" that preceded Mr. Quatman's I'm a liar punch line nor did she investigate why this matter was placed in media just prior to my trial. After all these years the forming of the media release was interesting. tr tran 28, 18-19; 67, 22; 69, 1-5; 71, 2-4; 82, 18-19; 121, 3-6 and 131-132.

The petitioner presents a multitude of issues that simply were not raised on direct appeal, partially because appellate counsels appearant strategy she chose but a few issues. The primary reason claims did not get raised is because the petitioner did not have a chance to review the transcript or other case record. Without the review of at least the transcript a full and fair hearing was impossible. The volume of issues presented in petitioners amended post-conviction and supplements simply did not get a full and fair hearing.

1) Due process requires as general an opportunity to be heard at a meaningful time and in a meaningful manner.

2) Citizens must be afforded due process before the deprivation of life, liberty or property. MATHEWS v. ELDRIDGE, 424 US 319, 333 47 L.Ed 18, 96 S.Ct. 892 (1976).

The Court reprimands the petitioner for not raising the issues on direct appeal in one paragraph. However, the Court contradicts itself, chiding the petitioner for expecting appellate counsel to raise them in another paragraph. Page 3, 3-4 and 27-28 of Rationale.

According to the Court, Mr. Quatman in a sworn response to a Gillam order stated that, "the petitioner never mentioned to him the victims computer or asked him to analyze it or have it analyzed." There is no

1 factual or legal support for petitioners claim that he is entitled to post-
2 conviction relief. Page 8 of Rationale.

3 Page 8 of Rationale implies defense counsel Quatman never had any con-
4 versation regarding the computer with the petitioner.

5 The following computer dialoge is taken from a Detective Landis/Roedel
6 interview.

7 LANDIS: Well as long as you know, she's been on that computer, and I know
8 that you weren't on the computer, um, I'll have it analyzed and see what I
9 find out.

10 ROEDEL: Please. Page 18 Landis/Roedel FU#12. Also see;

11 LANDIS: And when I have time to make arrangements with the agent in Helena
12 to to analyze that computer. And then I'll make the next step and go do
13 some "additional interviews". Landis/Roedel interview page FU#14. Page 26.

14 Mr. Quatman as defense counsel has the audacity to claim he never read
15 FU#12 or FU#14 of the Landis/Roedel interviews and knew nothing about the
16 computer dialoge, and furthermore does so state in a sworn document. (i.e.
17 response to Gillam order). See exhibit F and G.

18 Please note the court and state deny this petitioner ineffective
19 assistance of trial counsel in their sworn order and Rationale while the
20 foul conduct of counsel remains in progress.

21 Now the state emphasises sworn statements or verified statements as a
22 reason to deny or reject the petitioners claims. The state or court further
23 implies sworn statements are more reliable than one's mere signature.

24 Now I find Glen Neier was appointed post-conviction counsel as of
25 December 18, 2008 and the first and only correspondence I receive regarding

1 this sworn document is a notice to withdraw as counsel November 5, 2009.
2 The conduct of this entire court is outrageous. The "additional interviews"
3 of Landis (pg 26 Landis/Roedel FU#14) remain suppressed as does the
4 computer analysis.

5 Considering the shameful and unethical conduct of the State, it seems
6 a travesty to deny this petitioners amended post-conviction petition and
7 its two supplements based on verification issues.

8 The above petition material is well referenced to the trial transcript
9 and/or interviews which was afterall, the primary source of information.
10 Off record material such as the computer records simply requires a hearing
11 to develop this information content.

12 Much of the States alledged inculpatory would become exculpatory if all
13 the underlying facts were brought forth at a hearing or new trial (i.e. the
14 bullet hole in the shirt, the various angles of trajectory this bullet
15 alledgedly traveled to exit at the measured 44 inches above the floor exit
16 or the exit down on the flank below the shirt exit.). A prosecutor may not
17 obtain a criminal conviction through use of false evidence. THOMPSON v.
18 CALDERON, 109 F3d 1358 (9th Cir 1996).

19 The States "Firing All Three Shots" Theory

20 The State refers to evidence against the petitioner, i.e. "firing all
21 three shots". Page 8, 1-4 of Rationale. The State refers to a partial
22 statement from the trials transcript 349-356. Transcript pages 349-356
23 actually contain bits and pieces favoring the States theory and conveniently
24 omits and suppresses the complete story.

25 The complete story begins with media releases from the sheriffs office

1 that depicted the shots fired August 27, 2005 as three rapid fire shots
2 emitting from the Roedel residence. The media further implied that all the
3 neighbors did so hear the shots as bang bang bang or boom boom boom. The
4 The rapid fire scenario plus all the neighbors hearing the same was not only
5 coersive but totally negated the time Roedel originally recalled which
6 accounted for the gun exchange time. The news release account which sug-
7 gested all the neighbors supposedly reporting the same story was also
8 coersive and overwhelming. Defense counsel and the State have been careful
9 not to deliniate the coersive news content or introduce the footage into
10 evidence. The footage or news paper articles have remained suppressed.

11 A Landis/Roedel interview took place after some of the early releases
12 and the coersive impact is loud and clear as Roedel reconsiders his original
13 account of events. That account is as follows:

14 LANDIS: I'm not -- I don't believe, Larry, for a minute that that's not what
15 you thought you heard --

16 ROEDEL: And, uh I thought she had shot. I had no -- I didn't hesitate in
17 tellin' the officers that night that she'd shot twice on the stairways.
18 And I believed that until somebody said they'd seen the news and that some-
19 body on the news or a paper -- somebody -- paper -- one of the attorneys or
20 somethin' had said they -- in the paper that the shots wer bang bang bang.
21 And I thought "then I shot all three shots." Landis/Roedel last paragraph
22 page 31, first paragraph page 32 FU#12. This was the States infamous three
23 shot confession. NOTE: The transcriber set "then I shot all three shots"
24 in quotations as though they were the only words Roedel spoke. The inter-
25 view continues, as does the coercion.

1 LANDIS: We have more than one eyewitness that says they heard bang bang bang
2 and I know you fired all three of those shots.
3 ROEDEL: I -- (cut off)
4 LANDIS: Which keeps bringin' me back to is that, you know, we know about
5 her -- her things in the past. We know that you thought your life was
6 threatened on those stairs. However, you got the gun away from her.
7 ROEDEL: uh-huh
8 LANDIS: And what made you go to the top of those stairs and fire those
9 three shots at her?
10 ROEDEL: You just didn't listen to me.
11 LANDIS: No, I did listen to you.
12 ROEDEL: You really didn't.
13 LANDIS: You didn't think she was on those stairs?
14 ROEDEL: No, you really didn't listen to me. She had cleared those stairs.
15 LANDIS: Right.
16 ROEDEL: And she hit the light on the bottom.
17 LANDIS: Yes.
18 ROEDEL: And she was gone for a period of time and I thought it was broke
19 off. I thought -- I thought the evening was done. That lit. And I hear a
20 step on them bottom stairs.
21 LANDIS: Yes.
22 ROEDEL: And that when I rose up, and I know I fired the first shot. And I
23 think the hammer was back. There was something wrong with that son-of-a-
24 bitchin gun. From the git-go I told'em that, from the git-go. I think the
25 hammer was back on it and then I think my hand was tremblin. I do think the

ROEDEL APPEAL OF
POST-CONVICTION

1 first shot went off accidentally, and I don't even remember the other two.
2 And from there I -- I go in and I'm crouchin' by my desk. And thats when I
3 heard her voice saying, "Larry" and I turned the light on. And she's
4 standin' down there "you just shot me". Page 32 Landis/Roedel FU#12.
5 There simply was no three shot confession.

6 Then the State cited page 350 of trial transcript as follows:

7 LANDIS A: "so do you think you could have fired those three shots in an
8 attempt to get on a empty cylinder?" His response (ROEDEL) was, "It may
9 have been possible -- It may have been possible that I fired all three of
10 them." tr trans 350, 16-20. The above quote is repeated verbatim on tr
11 trans 352, 4-10 by Quatman, who added "and then I asked you to read your
12 interruption and his finished answer. Will you read the next three lines
13 352, 11-13."

14 LANDIS A: Yes -- okay. That's something I can -- and Mr. Roedel responds
15 "But -- But it doesn't -- it doesn't explain -- I thought I was shot at
16 twice down the hallway." tr trans 352, 14-17 And then by Corrigan "What
17 was his response?"

18 LANDIS A: Mr. Roedel responds, "that -- that, uh, uh, I concluded probably
19 was true. I remember -- I remember the first one going off, and I was kind
20 of a -- it seemed like that first one suprised me, it was like I wasn't
21 expecting it to go off. And I don't remember the other three from -- but
22 from listening to what I heard from the outside, that the shots were like
23 boom boom boom, consecutive, I would have to contend that I probably did."
24 tr trans 353, 10-18. Continuing on tr trans 354, 6, Landis quotes Roedel:
25 A: and thats when I rose up, and I know I fired the first shot. tr trans

1 354, 6-7. Roedel was not refering to the first shot of the evening. He
2 was refering to his own firing sequence. The above was deliberately out of
3 context and content as implied by Landis. Roedel is quoted at 13:

4 ROEDEL A: And I believe that until somebody said they'd seen the news and
5 that somebody on the news or a paper -- somebody's paper, one of the
6 attorneys or something had said they -- in the paper the shots were bang
7 bang bang and I thought I shot all three shots. tr trans 354, 13-18.

8 Roedel confirms he was coersed by the "neighbors" account.

9 Landis asking a coercive question. Q: But remember the witnesses say
10 the shots went bang bang bang, how do you explain that?

11 ROEDEL: Because that's the way they went. According to the neighbor there
12 was no other way the shots could go.

13 The coercive television account and Landis's constant coercion had
14 Roedel confused and doubting his memory. In spite of it all, Roedel never
15 confessed he shot all three shots. If (A) was true (the television news)
16 then (B) was true (bang bang bang). Roedel never more than acknowledged an
17 if (A) was true then (B) was a true possibility. Never once without ambig-
18 uity exclaim, "yes I certainly fired the shots in question" on his own.

19 I do not believe the local television news would release such adverse
20 news footage without police permission nor would the newspaper. Roedel
21 was not the only person influenced by the media.

22 Mr. Nadeau, a potential juror was one of my jurors that was honest
23 enough to admit media influence. Mr. Nadeau responds to a question and
24 yesterdays news.

25 NADEAU: And I don't feel it would impact my decision, but my feeling when I

1 read the paper -- I think it was yesterday morning, is all it said was mul-
2 tiple shots and accidental shooting, and I'm an old target shooter, and my
3 gut feel -- my joke about it was I can understand missing three times, but,
4 you know, but accidentally hitting one of those times was my joke, and I don't
5 -- but it is -- it did stick with me. tr trans 59, 3-11.

6 QUATMAN: As you sit here right now do you have a feeling that Mr. Roedel
7 is guilty of this?

8 NADEAU: Probably. tr trans 62, 4-7.

9 I believe after the media blitz it is nieve to believe Nadeau and
10 myself were the only ones confussed. See Landis/Roedel interview page 32
11 FU#12 all. Last paragraph of FU#12 page 31 and first paragraph of page 32
12 FU#12 Landis/Roedel interview.

13 The State evidence "shot all three shots" is a sorry excuse of a
14 coersed, fabricated hoax engineered by the State.

15 Corrigan (prosecutor) in closing. CORRIGAN: He admitted to police
16 because he had to that he fired that gun three times. tr trans 739, 14-15.
17 CORRIGAN: Gunshot residue, you've heard a lot about that. And I'll admit
18 to you, the findings on her hands caused us a little bit of a setback and
19 we had to think about that, but the fact still remains, Dawn didn't shoot
20 that gun. tr trans 744, 4-8. (Corrigan continues)

21 But that GSR got on Dawn's hands in some form or fashion. She either
22 held the gun and threatened him with it and then he took it from her (tr
23 trans 744, 23-25) and shot her, or he held the gun while they're upstairs
24 in the bedroom -- having a argument, perhaps, she takes the gun from him,
25 sets it down, leaves, he picks up the gun, shoots her. GSR is on her hands

1 under both scenarios, or the GSR settles on her, as does the other gun
2 powder, or its transferred to her hands when Deptuy Carlson checks for a
3 pulse and when the defendant holds her hand after killing her. However
4 that gun powder got to her hands -- GSR -- it doesn't exonerate the de-
5 fendant of murder because she never pulled the trigger. tr trans 745, 1-12.
6 CORRIGAN: Don't let a bunch of misdirection and speculation that has no
7 merit tell you other wise. tr trans 751, 19-21.

8 The above conjecture, misdirection and speculation was a small por-
9 tion of the total by the state in closing. The State offered no proof
10 what so ever that Dawn in fact did not shoot the gun.

11 The State does not have a substantive confession of Roedel firing all
12 three shots.

13 The States star witness was on local television news stating he wished
14 Roedel dead. This star witness (Mr. Kliev) has had a long running feud
15 with Roedel and is subject to venality and his rapid fire testimony is
16 subject to purjury. The States actors did interview Kliev prior to trial
17 and knew or should have known of the conflict. tr. trans 328.

18 The opinion testimony by the prosecutor that Dawn never fired the
19 weapon had no substantive supporting evidence. The State relied on mere
20 conjecture.

21 Prosecutor may not assume prejudicial facts not in evidence, nor may
22 he insinuate possession of personal knowledge of facts not offered into
23 evidence. People of Territory of Guam v. Torre 68 F3d 1177 (9th Cir 1995).

24 The prosecutor clearly and without ambiguity expressed his opinion
25 in closing arguments that the defendant was guilty.

1 CORRIGAN: Regardless of what he hoped to gain from this, he murdered her,
2 and he is guilty of deliberate homicide. tr trans 751, 17-18.

3 A prosecutor may not express an opinion of the defendants guilt.
4 US v. Hermanek, 289 F3d 1076 (9th Cir 2002), AUS v Garcia-Guizar 160 F3d
5 511 (9th Cir 1998), US v Rude 88 F3d 1538 (9th Cir 1996).

6 A prosecutors conduct during closing argument may be grounds for
7 reversal of a conviction. US v Beckman 222 F3d 512 (8th Cir 2000).

8 The "all the neighbors" news release was so productive for the State
9 they could not get over themselves and had an identical statement in
10 their opening.

11 Opening by Assistant County Attorney Adams "... the Sheriffs Office
12 also interviewed people, they interviewed the neighbors, neighbors who
13 stated that 11:00 P.M. on August 27th, 2005 they heard gun shots coming
14 from the Roedel residence. More specifically, they heard three shots.
15 And they indicate to you -- us that they heard them exactly as boom, boom,
16 boom." (Indicating rapid fire.) tr trans 169, 21-25, 170, 1-2.

17 At this time authorities knew well that only the Kliev's would so
18 testify. This statement was deceptive and had to have influenced at
19 least one juror prejudicing Roedel.

20 The Rapid Fire Testimony

21 It appears the fabricated and coersed news releases were the substance
22 which generated the fabricated "I shot all three shots" scenario which
23 fueled the corroborating rapid fire testimony of Ray Kliev. Ray and Karen
24 had tightly coached accounts of rapid fire with no space between the shots.
25 tr trans 230-239. Sharply in contrast and opposed to the testimony of

1 Slowik and Nelson. tr trans 631-638.

2 Ray Kliev did appear on local television news and very boldly stated
3 he wished Roedel was dead. This statement stemmed from a long running feud
4 that has existed between Kliev and Roedel. Detective Landis interviewed
5 the Klievs, (Prichard) Slowik and Nelson prior to trial. tr trans 328.
6 There is little doubt questions of character arose however whether Landis
7 kept her note pads remains a question.

8 Police knew or should have known of the feud and clearly had the
9 opportunity to do so. tr trans 328.

10 Ray Kliev's dislike toward Roedel let him and his venality become the
11 very clay the pottor spun into a star witness.

12 Ray Kliev's television spot wishing Roedel dead subjects Mr. Kliev to
13 perjury together with the sharply contrasting accounts from two other
14 separate family units. Both accounts depicted the length of time between
15 shots as up to 30 seconds.

16 Slowik and Nelson corroborated Roedel's account of the gun exchange.

17 After Dawn fired her last shot, there were three seconds or so to put
18 the gun to my head, three to four seconds to recover the gun, four seconds
19 to ascend and set down to recuperate.

20 The two or three seconds until the noise in the lower stairwell and my
21 simultaneous bolt, trip, shoot and fall scenario account for a 10-15 second
22 time span between the second and third shot.

23 The evidence of rapid fire was manufactured evidence and therefore
24 should not have been admissible evidence at all. The media release was
25 directed by police who were aware all of the families interviewed contended

1 up to 30 seconds of time between the second and third shot with the
2 exception of Klieves, which more than accomodated and corroborated Roedels
3 account.

4 Police knew or should have known the only neighbor with a contra-
5 dicting account was the Klievs which were subject to perjury. A true
6 rapid fire scenario does not exist. This scenario was totally fabricated
7 and engineered.

8 If officers use false evidence, including false testimony, to secure
9 a conviction, the defendants due process rights are violated. Phillips v
10 Woodford, 267 F3d 966 (9th Cir 2001).

11 Deceased on Exterior When Shot

12 On page 7 of Rationale the court rants on about the victom being
13 someplace other than in the stairwell when shot.

14 Of course I too thought she was on the stairs at first because thats
15 where she was when she called out "you just shot me." At the time I had
16 no opportunity to review the evidence. The State implies this is a new
17 concept, but page 32 of FU #12 Landis/Roedel interview, I was sure she
18 had in fact left the building. What I could not understand at the time
19 is how she got shot in the back.

20 I thought the noise I heard in the lower stairwell was Dawn return-
21 ing, possibly with another gun. We did have other guns in the house.
22 tr trans 256, 13. FU#12 pg 36.

23 The problem here is at the time I was basically deaf from being shot
24 at, at point blank range. My hearing was unreliable. The noise could
25 have been a stick of firewood bounced off the exterior wall or other acts

1 of anger by the deceased.

2 Dawn was on the stairwell when she called out and when I turned the
3 stairwell light back on.

4 I had no other information at that time. None of the above have any
5 relevance to where she was at when shot.

6 As information became available, I realized Dawn could not have been
7 on the interior when shot, which is well argued in amended post-conviction
8 and there is no need to elaborate further at this point. pg 21 Amd Post-Con.

9 Wrongfully Arrested

10 If the police learn information that destroys their probable cause
11 to arrest a defendant, the arrest may become illegal. US v Edwards, 242
12 F3d 928 (10th Cir 2001).

13 Arrest without probable cause violates the Fourth Amendment. Lee v
14 City of Los Angeles, 250 F3d 668 (9th Cir 2001).

15 Arrest is not justified by what subsequent search discloses. US v
16 Myers 308 F3d 251 (9th Cir 2002).

17 Lake County officers were the first responders. tr trans 178-196.

18 Mike Carlson reported that the petitioner stated that they were
19 arguing and as she went down the stairs he shot her in the back.

20 The above as quoted by Carlson is a very damning statement on its
21 face. However, when Dawn called out "you just shot me", and after turn-
22 ing the lights on, there was no sign of injury to Dawns frontal area.
23 There was considerable blood on the stairs. She had to have been shot
24 somewhere and it wasn't in the front. What is interesting here is she
25 wasn't shot in the back either. Dawn was shot through the top of right

1 shoulder. The bullet went cross-ways in the body. Again, the petitioner
2 was making statement without all the information. State trial exhibit 1
3 will show no signs of a frontal injury.

4 I thought the noise I heard was Dawn returning with another back-up
5 gun. tr trans 212, 24-25 and 213, 1.

6 The arrest was no more than a strategical advantage for the pros-
7 ecution and police who knew within the first 24 hours that Dawn more than
8 likely fired the weapon as a result of her GSR tests.

9 The GSR was detected on Dawns hands within the first 24 hours which
10 should have overcome police suspicion to arrest.

11 While conclusive evidence of guilt is not necessary to establish
12 "probable cause" to arrest; however mere suspicion, common rumor, or even
13 strong reason to suspect are not enough. Easy Riders Freedom F.I.G.H.T v
14 Hannigan, 92 F3d 1486 (9th Cir 1996).

15 Lake County officers were the first responders. The officers had no
16 reason to draw their weapon, although they understood this was a shooting.
17 tr trans 178-180.

18 Lake County officers performed no investigation because it was a
19 Flathead County incident. They secured the scene and placed the petition-
20 er in a patrol car fully hand cuffed and Roedel was not free to come and
21 go. tr trans 185, 196, 1-5 and 196 22-23. Arrest is not justified by what
22 subsequent search discloses. US v myers, 308 F3d 251 (9th Cir 2002).

23 However, in this case the exculpatory GSR on Dawn Thompsons hands was
24 among the first findings. The State chose to ignore and negate those
25 findings, contrary to Brady v Maryland, 373 US 83, 83 S.Ct. 1194, 10 L.Ed.
26 2d 215 (1963) and its progeny, as in US v Price (CA 9 (Or.) 2009).

1 Where an equal or nearly equal theory of guilt and theory of innocence
2 is supported by the evidence, the Court of Appeals must reverse a convic-
3 tion. US v Colon Munoz 192 F3d 210 (1st Cir 1999).

4 The petitioner was arrested prematurely and constitutional rights were
5 violated when he was not released upon findings of GSR on Dawn Thompsons
6 hands which corroborated her shooting the gun and no evidence to the
7 contrary was ever produced. Dawns GSR supported innocence more likely than
8 guilt. More likely that she fired the weapon than not, according to the
9 evidence. US v Colon Munoz 192 F3d 210 (1st Cir 1999).

10 Insufficiency of Evidence Content

11 The prosecution stated they had to stop and think what to do next as
12 a result of the GSR test. tr trans 744. A product of that thinking includ-
13 ed a photo fabrication of a unconfirmed spot on the wall to serve as blood
14 spatter, the drama of a wine glass lost by Roedel himself. They had to
15 negate clean bullet holes and bullets which should have had some trace of
16 human biological matter, especially when they moved the exit hole to the
17 flank area to negate the fact Dawns shirt had but one bullet hole. The
18 flaw of the flank exit in this theory contends the bullet exited below the
19 shirt, exiting the body from the flesh, with no clothing to account for
20 wiping the bullet clean. They had to act totally ignorant to employing
21 interior trajectory methods to the exterior to find the alledged lost
22 bullet that, according to defense counsel just kept going. Or, even place
23 a straw through this bullet hole; peer through the straw and see where the
24 bullet went. They had to convince the jury that the updraft chimney like
25 breeze axiom that actually exists in that stairwell had mysteriously

1 reversed that night and carried the GSR down onto Dawn. They had to avoid
2 GSR tests on the petitioners naked torso. They had to avoid GSR tests on
3 the petitioners head where his assailant placed the gun against his head.
4 They had to negate the GSR on Dawns hand to advance the possibility of
5 accidental GSR contamination by omitting hand bag, body bag and clothing
6 GSR counts. They had to negate the gun exchange time span of perhaps 15
7 second to a rapid fire impossibility utilizing fabricated information,
8 leaks to the press and purjured testimony of Ray Kliev.

9 The State has to cover up the attempted murder of the petitioner by
10 the hand of Dawn Thompson negating GSR, the assailants computer records,
11 and her gross personal debt. Suppression here is egregious and ubiquitous.

12 This petitioners jury had to have been adversley influenced by Rod
13 Meyers, "yea, I think he's guilty based on shop talk" statement at voir
14 dire.

15 The impact of radical media releases was prejudicial.

16 All of this topped off with a foul appointment of post-conviction
17 counsel, refering to Mr. Neier.

18 We cannot omit the bogus out of context "He shot all three shots"
19 confession they called it.

20 Roedel was denied a polygraph request early in his arrest. The offer
21 to take the test was also denied. See defendants response to polygraph
22 evidence, dated 29th of March, 2006 filed by Quatman. DC-05-357(A) and
23 filed by Ed Corrigan March 27, 2006 is a motion in Limine RE: Objects and
24 Computer Web Site. Contents included lesbian web sites and other pornog-
25 raphy sites Dawn visited. The State reasoning here was it would embarras

1 Dawn posthumously and prejudice the States case by attacking her character.
2 Rules of evidence do not permit attacks on the other party's character.
3 However the claim by the petitioner here in that Dawn Thompson made an
4 attempt on his life. In this case and motivational information should be
5 allowed into evidence. The petitioners claim corroborated by the GSR
6 evidence should be sufficient to establish such a claim. Computer,
7 personal debt, life insurance policies, and depositions should be allowed
8 as substantive information supporting this petitioners claim against
9 Thompson. It appears a similar reasoning was being honored when the State
10 negated a positive GSR test on Dawns hands and ultimately ignored her
11 murderous attempt on my life. All the above, if reviewed fully and
12 fairly, I suppose would prejudice the States case against Roedel by show-
13 ing the State had no evidence. Evidence even to arrest is in question
14 considering her GSR.

15 Misdirected Analysis of Deceased Web Site and
16 Deceased Character in General

17 The computer was analyzed by Jimmy Weg of the Computer Crime Unit,
18 Montana Division of Criminal Investigation.

19 Agent Wegs examination discovered a Lesbian web site and other
20 pornography, which appears to have been visited by Dawn.

21 I somewhat concur that the information discovered by Weg may not be
22 relevant to the charge of deliberate homicide, but have a different opinion
23 in this defendant's claim of self-defense, and the attempt on his life.

24 The petitioner did exclaim to police he feared for his life and there
25 is substantive reason to believe that to be true. i.e. Dawns GSR.

1 What the State has refused to knit into the equation is our daughter
2 Emilys account of Dawn and I dancing earlier in the evening. Dawn had
3 initiated an argument over the idea I should deed to her land I had owned
4 previous of our relationship.

5 I dispensed with the argument and suggested we put on music and dance.
6 I thought hard feelings were over when I went to bed. tr trans 215-216.

7 The obvious tenaciousness of Dawn to have her own way ended up in a
8 shooting she also initiated.

9 I had no idea Dawn was 30-40 thousand in personal debt with no record
10 of amounts due and owing beyond her obvious credit card cash-outs at that
11 time. However, the State had to have this information but chose to
12 suppress the same.

13 The debt became known to me when Attorney Peter Carrol of Kalispell
14 worked with Dawns probate.

15 Details of this debt would require a hearing or new trial to resolve
16 the issues.

17 Dawn also visited The Tea House establishment, which was a place of
18 interest in the State v. Dick (Richard) Dason trial held in Kalispell in
19 2006. Attorney Best was Mr. Dasons attorney. Mr. Dason was consequently
20 sued in 2007 by the mother of a young lady that alledgedly was paid for
21 sexual favors by Mr. Dason. This client was said to have used the money
22 she aquired to purchase drugs at The Tea House and ultimately died in an
23 auto wreck returning to Kalispell. This was the basis of a wrongful death
24 suit against Mr. Dason that netted the mother of the girl one million
25 dollars of Mr. Dason's money.

1 This was the first time I had heard anything of such activity at The
2 Tea House, however, inmates at County Jail also acknowledge this a true
3 Likelyhood.

4 Supression of information comes to mind. Police knew or should have
5 known of a high profile case like Dasons which included activity at The
6 Tea House. The establishment itself was not indicated to my knowledge as
7 subject.

8 Police had to know of her large personal debt.

9 Police had to know Dawn frequented The Tea House.

10 Police knew of Dawns sexual misorientation.

11 Police knew of Dawns sudden intrest in land I owned because I for one
12 told them.

13 Police knew of our 30 year age difference.

14 Police knew of some of Dawns extra marital escapades which I informed
15 them of, or what the computer data devulged.

16 The big picture here is Dawn obviously did not love her aged husband
17 as she might have.

18 Dawn lived a reckless personal life of total indulgence and indiff-
19 erence to her marriage and finances.

20 Dawn could not disipline her financial resources against her other
21 personal desires. The petitioners land was the most logical means to
22 aleviate her immediate personal debit needs. Police had to be aware of
23 the above. Dawn was in line to inherit the land should I die or possibly
24 commit suicide by, let's say a gun shot wound.

25 Dawn had life insurance policies with the USPS in Bigfork Montana.

1 The status of those life insurance policies remain suppressed.

2 Landis interviewed Dawns co-workers at the post office and know or
3 should have known of the policies.

4 In about the fourth paragraph on page 10, Landis inadvertently ex-
5 poses motivational material as to why Dawn would shoot me. (Page 10 FU
6 #12, Landis/Roedel Interview.)

7 Dawn may well have seriously considered leaving, which was an unknown
8 to me, as she never once brought up a serious conversation in this regard.
9 However, her co-workers express quite ademently, according to Landis, that
10 such was an eminent possibility. If all is true as depicted in Landis'
11 statement, then Dawn truly had motivation to shoot me, if she intended to
12 keep the children, which I'm sure would have been a priority with her.
13 Dawn had to have deep concerns that I would find out about her excessive
14 personal debt which alone would have been motivational to leave me.

15 A deposition of Nathan Thompson about a personal conversation he had
16 with Dawn just prior to the incident has been suppressed.

17 Police knew of all the above and thus far have suppressed the infor-
18 mation.

19 While the above is not relevant to deliberate homicide, it is relevant
20 to the attempted murder of Larry Roedel.

21 Dawn had motive and she acted. The GSR on that crucial outer thumb-
22 forfinger skin web of Dawns hand did not float there on the wind, nor by
23 merely handling the gun.

24 Police have ranted about Roedels past and it appears an old friction
25 there has become instrumental and a focal point to cover Dawns miserable

1 cold blooded acts in favor of prosecuting the petitioner. Police have
2 suppressed a mountain of information in this tunnel vision prosecution.

3 Two Exit Hole Accounts and Two Trajectory Angles

4 The amended petition covers the following very well in that all of
5 the bullets hit the wall, Dawns shirt had but one entry hole. One alled-
6 ged exit hole was 44 inches above ground on bra line. The pattern between
7 alledged exit hole and entry hole was an 11" x 11 1/2" square or about a
8 near 45° angle corner to corner.

9 The two bullets found had no human content, however they seemed to
10 have a trace of everything else they went through embeded on them. The
11 bullet holes had no human trace. The State produced no verifying lab tests
12 of the only single spot alledged to be blood spatter on the wall. The
13 State and defense counsel were conveniently and ignorantly void of any real
14 attempt to find the missing bullet. They failed to employ any of the di-
15 rectional methodology they applied on the interrior trajectories as though
16 instantly but conveniently struck dumb.

17 Although the bullet trajectory was angled sharply downward, defence
18 counsel implied it must have just kept going for all we know. Cites
19 omitted. See amended post-conviction.

20 Doctor Dale gave five different accounts of Dawns injuries. Detective
21 Landis gave another account and prosecutor Adams had yet another. INFRA.

22 The missing bullet, according to the evidence as rendered from the
23 trial transcript in the petitioners post-conviction, simply lodged in Dawn
24 Thompson. She had left the building. The State advanced an interior
25 shooting against the overwhelming evidence of a exterior shooting.

1 Doctor Dale indicates an exit wound down on the flank (tr trans 377,
2 25) which sharply contradicts his exit wound at 44 inches above the floor,
3 bra line, account rendered on (tr trans 402, 20) version.

4 The 44 inches above the ground version is enhanced with more measur-
5 ments at tr trans 399, 2-12.

6 The following is from transcript Quatman (Q:) and Doctor Dale (A):

7 Q: OK and the entrance wound that were talking about as 55 inches
8 from the ground is six inches right of centerline correct?

9 A: Correct.

10 Q: That means if we call the spine the centerline it's six inches
11 from the hole in the shoulder to the middle of the back.

12 A: Yes.

13 Q: And then it's five and a half inches from the middle of the back
14 to the exit wound.

15 A: That's correct. tr trans 399, 2-12.

16 Q: And the exit wound was 44 inches above the floor --

17 A: Correct. tr trans 402.

18 Q: Doctor Dale, how tall was Dawn Thompson?

19 A: Five foot six.

20 Q: And the entrance wound was 55 inches from the floor?

21 A: Yes, about 11 inches below the top of her head.

22 The above figures demonstrate a 11 x 11½ pattern. The diagonal corner
23 to corner represents a near exact 45° angle. However, if the exit is
24 dropped from the 44" bra line to the flank, the angle, without question
25 would be steeper than 45°, but definately not 45°.

1 My first response to the 44" bra line exit wound was then there should
2 be two bullet holes in Dawns shirt, which hung well below her bra line.
3 The shirt had but one bullet hole. tr trans 461, all and 462, all. We
4 know all three bullets hit the wall, so on an interior setting, one of
5 those bullets had to pass through Dawn and then hit the wall.

6 What is interesting is the up on bra line 44" above the floor exit
7 plus a down on the flank below the shirt exit to account for only one
8 bullet hole in the shirt. A 44" above the floor exit is an extremely diff-
9 erent location than a down on the flank exit.

10 Whether prosecutor Corrigan hoped a possible sleight of hand verbal
11 relocation of the exit wound to the flank would allow him the latitude to
12 falsify evidence, fabricate evidence, use testimony he knew or should have
13 known was false to permiate a court room is a question to be considered.

14 This prosecutor has used his powerful office to send an innocent
15 citizen of the United States to prison, all under color of the law.

16 Rod Meyer's Jury Influence

17 At voir dire, one detective Rod Meyers slipped through jury screening
18 to appear as a potential juror. Mr. Meyers acknowledged that he thought
19 the defendant guilty based on "shop talk", which suggests not only he, but
20 the entire shop thought me guilty. Those words were spoken in the presence
21 of my entire panel. The Court offered no corrective instruction. tr
22 trans 116.

23 To allow the jury to set was plain error. The entire panel should
24 have been dismissed due to detective Meyers statement. At least one juror
25 had to have been influenced by detective Meyers remarks.

1 Thompson. The police cover-up deliberately negates this and other evidence
2 that tends to be motivational. The GSR on Dawns hands, that is the pro-
3 tective bags placed on her hands at the scene to protect evidence was never
4 tallied. The GSR was not an element that simply floated there on some
5 freak down draft in the chimney like stairwell. These particles were on
6 the outer thumb-forfinger skin web. This area of the hand does not come
7 into contact with the gun by mere handling of the weapon.

8 Police said they would have her computer analyzed and it is not un-
9 reasonable to expect access to the results of that analysis.

10 In light of the overwhelming GSR evidence, it is not unreasonable to
11 expect a full blown investigation into any activity of Dawns that may have
12 been potentially motivational or contain other inculpatory evidence of her
13 intentions to do away with her aged husband.

14 Motivation was expressed in a Landis/Roedel interview. Page 10 FU #12.
15 According to Landis, Dawn did express a desire to leave her husband but was
16 faced with a very motivational problem of keeping her children. Also, Dawn
17 was in serious personal debt that was made known to me. The records have
18 been at the office of Peter Carroll, attorney for the probate of Dawn
19 Thompson for some time. The debt could not remain secret forever.

20 No investigation has been made into debit beyond her credit cards that
21 may have been due and owing.

22 The children (at a hearing) could vouch for Dawns unusual interest in
23 land holdings of the petitioner, where she strongly suggesting some of
24 **these holdings** be deeded to her for her disposal.

25 Corrigan does make a concession at trial.

1 CORRIGAN: "pointed at him" that's possible. If she obtained a gun at
2 some point during the course of the evening it is possible she pointed it
3 at him, we will concede that. tr trans 738, 10-13.

4 CORRIGAN: She either held the gun and threatened him with it and then he
5 took it from her and shot her. tr trans 744, 24-25; 745, 1.

6 The State acknowledges the possibility of Dawn pointing the gun and
7 threatening the petitioner with it and conceded those facts.

8 The State, without ambiguity concedes Dawn pointed the gun at the
9 petitioner.

10 If Dawn pointed, then she threatened the petitioner.

11 House Bill 228 states a threatened person does not have to flee or
12 summon police before reacting to a threat.

13 The contested facts of who shot the most rounds is not an argument
14 under HB 228 - Whoever initiates an exchange of gun fire may suffer dire
15 consequences under HB 228.

16 It would seem outrageous for Roedel to remain in prison for 80 years
17 plus 10 for a weapon over a scenario that is clearly no longer against the
18 law or a crime at all. HB 228.

19 Under the due process clause, a statute which criminalizes conduct
20 may not be impermissibly vague in any of its applications. Forbes v
21 Napolitano, 336 F3d 1009 (9th Cir 2000).

22 45-5-201(1)(d) which sets forth the elements of the offence of assault
23 where the act is committed purposely, knowingly or negligently, thus main-
24 taining the intent element consistent with the other proposed statutes
25 dealing with offence against the person. Here (1)(d) is apprehension of

1 mere physical contact. If a person knowingly points a firearm at another,
2 reasonable apprehension of bodily injury will result. In Napolitano, (1)
3 (d) might be considered impermissibly vague but not necessarily so. The
4 State conceded Dawn pointed a gun at the petitioner, which establishes
5 apprehension. HB 228 simply clarifies permissible action when faced with
6 such apprehension.

7 The question then is, should Roedel remain incarcerated for an act
8 that may never have been against the law and is now absolutely a permiss-
9 able act under HB 228?

10 Roedels claim is firmly supported by the GSR found on the hands of
11 the deceased and such evidence is substantive and corroborative with
12 Roedels account. GSR on the outer hand away from the palm is not consis-
13 tant with merely handling a gun.

14 While evidence is concidered in a light most favorable to the State,
15 what is problematic here is, there doesn't appear to be any light according
16 to the inference of the evidence.

17 The State has been two minded in the issue of Dawn as a victom, but
18 on the other hand concedes she pointed a gun at the petitioner and no
19 evidence exists that she did not fire that weapon. NONE WHATSOEVER.

20 An equal protection claim, without more, cannot rest on a spurious
21 premise such as the belief women are always the victoms of domestic
22 violence. Eckert v Town of Silverthorne 258 F3d 1147 (10th Cir 2001).

23 It is clear the equal protection clause prohibits government officials
24 from selectively applying law in a discrimnatory way. Central Airlines
25 Inc. v US, 138 F3d 333 (8th Cir 1988).

1 Had it not been but for the discriminatory posture of the State in
2 their approach in investigating this case, and had they investigated with
3 an open eye and open mind in light of Dawns positive GSR count, the out-
4 come of the trial would have been different. Roedel should not have
5 remained detained, which implies his arrest became illegal after the State
6 found Dawn possessed a positive GSR count consistant with a shooter.

7 The application of law was wrong and proceeded on a biased basis
8 courting a spurious premise that Dawn was a victom. HB 228 which governs
9 criminal law should be applied retroactivly to all criminal cases pending
10 review. Also, see supplement II to amended post-conviction petition.

11 Immediate Collapse Theory

12 Immediate collapses appears to be the last desparate efforts of the
13 State to advance their interior shooting against all the evidence of clean
14 bullets, clean bullet holes void of human tissue. The single bullet hole
15 in Dawns shirt. The alledged exit wound that had two separate locations.
16 One location 44" above the ground, measured to the inch and a verbal
17 location down on the flank to get below the shirt. These two locations
18 firmly demand the impossibility of two individual angles through the body.
19 Then the Mighty Casy steps up to bat, aka Doctor Dale, who testifies the
20 no blood spatter theory.

21 Dr. Dale: Well this was not an immediatly fatal or rapidly fatal wound
22 in terms it did not damage the heart or major blood vessels. So most of --
23 the most significant injuries, the most significant mechanism of injury in
24 this case was bleeding into the cavities surrounding the lungs, and it prob-
25 ably took in the ballpark of a few minutes to pass. tr trans 382, 19-25.

1 The above corroborates the petitioners account that Dawn was mobile
2 and he did exchange words with Dawn before she stepped down a couple steps
3 and collapsed backward onto the stairs. What is interesting is, according
4 to the good doctors, no major blood vessels were damaged however, Dawn
5 bled to death in a few minutes like a partialy slit throat.

6 Dr. Dale further testifies the following to advance the immediate
7 collapse theory, which advances an interior building shooting.

8 DR. DALE: Part of the wound track involved the spine in this case, two of
9 the vertebrae -- we're talking the main bodies of the vertebrae in the
10 lower part of the back were basically destroyed by this bullet as it passed
11 through. I looked at -- the spinal cord was not directly hit, it passed
12 through those vertebrea and the spinal cord did not show evidence of
13 bruising, but more likely than not in my opinion when a bullet passes
14 through even one of those vertebrea in my experience even a grazing bullet
15 wound to one of those vertebrea can result in individuals -- and in my
16 opinion more likely in my opinion did result in her immediate collapse.

17 MS ADAMS: I have nothing further. tr trans 414, 8-22.

18 Recross by Quatman (Q:) of Dr. Dale (A:):

19 Q: More likely that she would collapse immediately, but not
20 necessarily so.

21 A: Not to any degree of medical certainty, that's correct.

22 Q: Had the spinal cord been severed she would have went down very
23 quickly.

24 A: Yes

25 Dr. Dale stoutly delivers an analysis consistant with a severed spine

1 to accomodate immediate collapse. Recants, his analysis has no medical
2 certainty. Casey made first but no home run, but what about a pinch
3 hitter. Let's say;

4 JEANNE LANDIS: I know from autopsy report and seeing her at the scene,
5 she was shot in the back of the right shoulder, which severed her spine,
6 which would suggest that she instantly dropped. And I know --

7 ROEDEL: No she didn't.

8 See page 14 Landis/Roedel interview FU#14, last paragraph.

9 At the time, Roedel had seen no records, no evidence, had suffered
10 the coercion of interviews and news but came forth with a resounding "no
11 she didn't" as he cuts Landis off. He had seen Dawn alive and upright
12 after her injury.

13 What is also interesting is Dr. Dale testifies there was no bruising
14 of the spinal cord.

15 No bruising to the spinal cord with two shattered vertebrae suggests
16 the vertebrae were shattered after death. Perhaps to remove a lodged
17 bullet. This explains one bullet hole in the shirt.

18 It explains why one bullet was said to have just kept going by my
19 loyal defense counsel. The only immediate collapse was the collapse of
20 brain waves of investigators, including trial counsel in that they all
21 failed to apply interior trajectory methods to the exterior to find the
22 allegedly lost bullet. It appears everyone knew where this bullet was, so
23 there was no need to launch a search. This bullet just kept going all the
24 way to Missoula Crime Lab embedded in Dawn Thompson because, there is no
25 evidence to the contrary.

1 It explains why the two bullets that were recovered and the holes they
2 made in the wall had no human trace.

3 It explains the desparation of creating and fabricating evidence.
4 There simply was no evidence connecting the petitioner to deliberate
5 homicide.

6 State Failed to Prove the Element of Their
7 "Side Impact Theory" of Bullet Said to Have
8 Inflicted the Injury

8 Possibly the States most convincing evidence was an oblong bullet hole
9 supposidly made by a yawing or tumbling bullet. When a yawing or tumbling
10 bullet hits a target, it has the potential to create a oblong bullet hole
11 impression, caused by the bullet impacting more side-ways than point first.
12 A bullet that has passed through a previous object is very likely to be
13 yawing or tumbling when it strikes a secondary object.

14 Travis Spindler, a firearms and tool mark examiner with the State
15 Crime Lab testified the following:

16 SPINDLER: That bullet would more than likely be tumbling. It has a strong
17 possibility of tumbling as it comes out of a body. tr trans 478, 18-20.

18 However this concludes the shakey support for the State theory that
19 this alleged tumbling bullet injured Thompson. From here the evidence is
20 negative in this regard. The negative applications are supported by the
21 States own expert. Here Spindler testifies acknowledging he has no idea
22 from the yawed or tumbled imprint that this bullet ever went through
23 Thompson and agrees that yaw and/or tumble is a natural characteristic of
24 hand gun bullets as does the attached bullet yaw exhibit. tr trans 503;
25 504, 1-6; 505, 7-13. See Bullet Yaw Exhibit J.

1 Travis desparately attempts to re-support States theory by being
2 evasive as to serology evidence on a bullet that allegedly has passed
3 through a body. Here Travis evasivly employs the word "visible" saying
4 there may be no visible blood evidence. The question had nothing to do
5 with visible or invisible, it had to do with laboratory serology tests.
6 tr trans 493, 10-18.

7 Allice Ammen, a chemist with the Crime Lab has clearly testified, as
8 shown elsewhere in amended post-conviction, that this bullet had nothing
9 of human value from a serology testing procedure to connect this bullet to
10 Thompson's death.

11 The yawing and tumbling, according to Spindler and exhibit information
12 contributes the yaw or tumble of a hand gun bullet to anything other than
13 natural phenomena of hand gun bullets.

14 There is no test that I know of to distinguish between the imprint of
15 a yawing vs tumbling bullet.

16 If a bullet does impact a wall side-ways, the bullet will tend to
17 flatten, leaving the end cross section oval shaped. The State took no
18 verifying micrometer readings from this bullet to verify side impact.

19 This egregeous failure to take such a reading suggests the State in
20 their zeal to prosecute, went to the length of tooling a normal bullet hole
21 to appear as a tumbler for a photo oportunity to accomodate and advance a
22 theory of side impact.

23 Therefore, there was no side impact effect on any bullet to prove with
24 a micrometer reading.

25 This evidence, like all the other evidence the State held up against

1 this petitioner has a common root deliniated in the words of Detective
2 Jeanne Landis, who boasts two years experience.

3 Quatman (Q:) questioning Landis (A:):

4 Q: And the bullet that we retrieved from behind bullet hole number
5 three, thats got no bodily tissue on it either?

6 A: Correct.

7 Q: And that was sent to the lab, and thats what they told us.

8 A: Yes.

9 Q: And thats the bullet that you claimed went through the victom.

10 A: In my opinion, yes. tr trans 321-322.

11 The guessful opinion that this bullet went through flesh, causing it
12 to tumble and the tumbling bullet was found in the wall.

13 The bullet had nothing of human value on it. The bullet did have dry
14 material in the form of wood chips and redish brown powdery material ad-
15 hearing to it, none of which connected the bullet to Dawn. The bullet
16 hole had no blood wipe. The bullet retained wall material which we know
17 for sure the bullet did go through. The bullet had no trace element of the
18 object Jeanne Landis GUESSED it went through, that being Dawn Thompson.

19 The States failure to employ tests to prove the evidence they claimed
20 to have is shocking. Without tests, the volume of States claim are mere
21 conjecture and shocks the sense of justice.

22 The States case is so evidence deficient it is egregious and out-
23 rageous that anyone was arrested, let alone prosecuted and found guilty.
24 But here, employment of every scandalous means available bought the State
25 a temporary victory.

1 Law enforcement techniques that are shocking to the universal sense
2 of justice mandated by the due process clause violates the Constitution.
3 US v Nyhuis 211 F3d 1340 (11th Cir 2000).

4 While a prosecutor is clearly authorized to strike hard blows in an
5 earnest and vigorous prosecution, he is not at the liberty to strike foul
6 ones. Berger v US, 295 US 78, 88, 79 L.Ed. 1314, 55 S.Ct. 629 (1935).

7 When a government agent acts in an unconstitutional manner, he becomes
8 liable. Biven v Six Unknown Agents, 403 US 388, 29 L.Ed. 2d 619, 91 S.Ct.
9 1999 (1970).

10 Foul blows by the State are ubiquitous throughout the proceedings and
11 are presented in the arguments of petitioners post-conviction material.

12 All Constitutional infractions are reserved without exception.

13 This should conclude in part the petitioners response to the Courts
14 order and rational.

15 Summary of Appeal

16 The State has no evidence not born out of fabrication and perjured
17 testimony. The volume of States evidence has always been the product of
18 nothing more than guess. Guess after guess with no underlying supportive
19 data and figures or verifying testing procedure findings. Not one piece
20 of evidence did the State produce that could withstand the rigore of cross
21 exam or sceintific testing procedure. This petitioner was bound in hand-
22 cuffs prior to any investigation. This petitioner was not released from
23 confinement when the State did produce reliable evidence as the GSR positive
24 tests on Dawns hands, which corroborated the petitioners claim that an
25 attempt was made on his life.

1 The State negated and suppressed volumes of exculpatory evidence as
2 stated in this petition of post-conviction.

3 The State totally covers an attempt on the life of this petitioner
4 or which was strongly and substantively supported by convincing evidence
5 that the State concedes gave them pause (i.e. GSR).

6 The State suppressed admissible motivational factors that may have
7 had the potential to prompt the assailants attack on the petitioner.

8 The State has denied effective counsel and an evidentiary hearing to
9 further advance claims of innocence for this petitioner.

10 Reserves Right to Writ of Habeas Corpus

11 The petitioner reserves all rights guaranteed by the Constitution and
12 law what so ever to file a Writ of Habeas Corpus for relief in this cause.

13 Relief

14 This petitioner challenges any and all alleged evidence this State
15 may have against him. The petitioner further claims he should be immedi-
16 atly exonerated and restored.

17 The petitioner further claims the very least relief should amount to
18 a full and fair evidentiary hearing by an unbiased court. The claims of
19 this petition that an attempt was made on his life and substantive evidence
20 of GSR on his assailants hand should afford him a full and fair review of
21 any and all possibilities without exception into motivational information
22 deliniating his assailants intentions or premeditation to commit the acts
23 of attempted murder of this petitioner. A new trial in a neutral, un-
24 biased venue is in order.

25 The petitioner prays the high court for this and whatever else it

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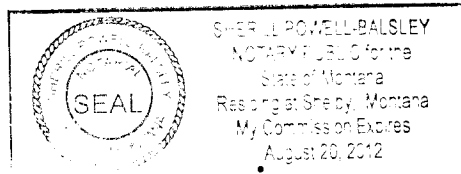
deems appropriate.

Lawrence Roedel

SWORN AND SUBSCRIBED TO before me this 24th day of December,
2009 by Lawrence Roedel.

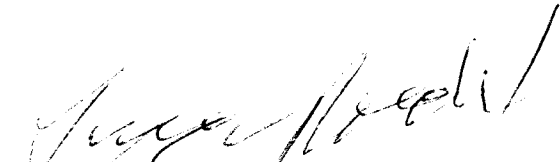
Sherell Powell-Balsley
NOTARY PUBLIC

My commission expires 8/20/2012



CERTIFICATE OF COMPLIANCE

Pursuant to Rule 27 of the Montana Rules of Appellate Procedure, I certify that this principal brief is type printed and double spaced. I have calculated by count the words to be less than 10,000 words, not averaging more than 270 words per page, excluding certificate of service and certificate of compliance.



Lawrence Roedel

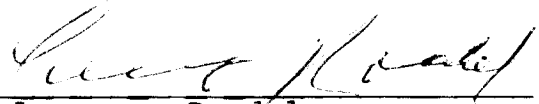
CERTIFICATE OF SERVICE

I hereby certify that I caused a true and accurate copy of the foregoing Brief of Appellant to be mailed to:

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Dated: 1-21-10


Lawrence Roedel